

**IN THE CHANCERY COURT
FOR WASHINGTON COUNTY, TENNESSEE
AT JONESBOROUGH**

BOBBY MacBRYAN GREEN,

PLAINTIFF / PETITIONER,

v.

**JODI JONES,
HOWELL SHERROD,
BETTY ANN POLAHA, and
MARY LEE JONDAHL,**

Civil Action No. 41049

DEFENDANTS / RESPONDENTS.

PLAINTIFF'S MOTION FOR TEMPORARY INJUNCTION

1. NOW COMES Plaintiff/Petitioner, Bobby MacBryan Green, pursuant to Rule 65, Tennessee Rules of Civil Procedure, and prays the Court for an Order maintaining or reestablishing the status quo as of 23 June 2011 in this matter. In support of which, Plaintiff would respectfully show unto the Court that :

2. The *Answer* filed 29 June 2011 asserts that “the allegations on which relief has been sought have already occurred rendering any judgment moot.”

3. The filed Affidavits of Defendants Jones, Jondahl, and Polaha assert that “Bobby MacBryan Green was removed as President of the Southside Neighborhood Organization (SNO) on June 26, 2011 by action of the Executive

Committee". All three affidavits consist almost entirely of the same sweeping legal conclusions without proper foundation.

4. Each affidavit assiduously avoids revealing any specific relevant facts, such as :

(a) when, by what method, and to whom the Call for the special meeting was delivered;

(b) the names of the officers and committee chairs physically present in the room when business was discussed and when any vote was taken;

(c) whether any votes were accepted by letter, proxy, telephone, etc.;

(d) the number of votes cast and by what method;

(e) in what manner the charges and specifications against Plaintiff were presented, as well as the content thereof;

(f) in what manner the proof against Plaintiff was presented, as well as the content of that proof;

(g) the standard used to adjudge Plaintiff to be incapacitated or negligent;

(h) at what time the gathering was called to order, and at what time it adjourned;

(i) the role played by Defendant Sherrod as Referee, as well as the source of authorization for a referee.

(j) the provision under which Plaintiff was "removed as President of Southside Neighborhood Organization."

Plaintiff has requested the above information from the SNO Secretary, Defendant Betty Ann Polaha, but has received no reply.

5. Because of the obfuscating nature of these Affidavits, Plaintiff asks the Court to require, pursuant to Rule 43.02, Tennessee Rules of Civil Procedure, that the Affiants testify and be cross-examined regarding their relevant actions and the specific facts.

6. Plaintiff avers that over many months he has diligently studied the SNO Bylaws and SNO Special Rules of Order and Robert's Rules of Order, Newly Revised. Based upon that prolonged study and upon information and belief, Plaintiff alleges that there has occurred no SNO meeting at which business resulting in removal of Plaintiff from the office of President could possibly have been transacted lawfully, and detailed reasons are set out below.

7. Plaintiff respectfully asserts that he, not Jodi Jones, is the rightful President of Southside Neighborhood Organization, and that the Defendants err in stating otherwise.

8. Pursuant to Rules 10.04 and 8.06, Tennessee Rules of Civil Procedure, paragraphs 2 through 16 of Plaintiff's verified *Complaint* are incorporated herein by reference, with the following necessary insertion of the words "at least" into the paragraph 10 sentence : "There are currently *at least* ten members of the Executive Board and the minimum number required for a quorum is *at least* six physically present in the same room." The reason for imprecision is

an ambiguity in the SNO Bylaws.

9. Plaintiff avers that all statements hereby incorporated were and are accurate and correct, taking into account the date on which the documents were filed. Based upon information and belief, Plaintiff alleges that all statements therein remain accurate and correct, while Defendants clearly assert otherwise, and this is one of the crucial issues before the Court.

10. Based upon information and belief, Plaintiff alleges that there has been no valid meeting of the SNO Executive Board in that five board members (Owen, Weiss, Cajka, Davis, Green) had described unavoidable out-of-town absences for Sunday 26 June 2011, making a quorum impossible for the meeting called for that date by Defendant Jones. Furthermore, he is informed that at least one member (Davis) of the Executive Board was not made aware of the Call for the 26 June 2011 meeting; Plaintiff avers that the email Call, sent by Jones and received by Plaintiff and addressed to seven other Board members and displayed as Exhibit Three of the *Complaint*, omitted Sarah Davis, the duly appointed Chair of the SNO Zoning Committee.

11. Unless the SNO Bylaws require otherwise, SNO functions according to Robert's Rules of Order, Newly Revised (RONR), which on page 469 mandates that :

In any case, a board can transact business only in a regular or properly called meeting or at an adjournment thereof, of which every board member has been notified and at

which at least a quorum (a majority of the total membership unless otherwise specified in the bylaws or established by the constituting power) is present. The personal approval of a proposed action obtained separately by telephone or individual interview, even from every member of the board, is not the approval of the board, since the members were not present in one room where they could mutually debate the matter.

12. Based upon information and belief, Plaintiff alleges that his rights as President of SNO are being violated in that Jodi Jones is currently presenting herself as the President of SNO, to the immediate and irreparable detriment of Plaintiff and SNO. The SNO website, www.TreeStreets.us, suddenly and without explanation lists Jodi Jones as SNO President, while the quarterly SNO Newsletter just delivered mid-June lists Plaintiff as SNO President. Confusion abounds.

13. Plaintiff alleges that if the current state of conflict and confusion created by Defendants' improper machinations is allowed to persist, it will operate to the prejudice and detriment of the Organization (90 member-households) and the neighborhood (3000 residents). It is essential to the well-being of the Organization and the neighborhood that the outcome of the November 2010 SNO election be respected and that the Executive Board function in a stable and predictable manner according to rules and proper procedure, rather than arbitrarily.

14. Even were the 26 June 2011 meeting valid, which it was not, the action taken at that meeting to remove Plaintiff as President was improper. The SNO Bylaws do not allow the Executive Board to precipitately "remove" an officer who is neither incapacitated nor negligent.

15. Plaintiff's papers filed in this matter, all of which were composed and typed by Plaintiff, demonstrate that he is neither incapacitated nor negligent.

16. **THEREFORE**, Plaintiff prays the Court for a *Temporary Injunction* maintaining or reestablishing the status quo as of 23 June 2011 as follows :

(a) Defendants shall make no attempt to prevent the Plaintiff from executing the duties and exercising the powers ascribed to the SNO President.

(b) Defendants shall make no statement impugning Plaintiff's right to the office of SNO President.

(c) Defendants shall retract any statements in conflict with the substance of the foregoing.

(d) Defendants shall make no effort to remove Plaintiff from office or to otherwise disturb the status quo existing as of 23 June 2011 until this matter has been adjudicated by this Court. Plaintiff shall likewise take no action to disturb the status quo existing as of 23 June 2011 until this matter has been adjudicated.

THIS THE 5TH DAY OF JULY 2011.

Respectfully submitted,

Bobby MacBryan Green, MD
Petitioner/Plaintiff pro se
404 Holly Street
Johnson City, Tennessee 37604
423.928.1219

VERIFICATION & AFFIDAVIT: After having been duly sworn and deposed, Bobby

MacBryan Green says: I am over 21 years of age and I am the Plaintiff/Petitioner in this Civil Action. I have carefully read the attached *Plaintiff's Motion for Temporary Injunction*. All the statements contained therein are true of my own personal knowledge, except for those matters which are explicitly alleged based upon information and belief, and as to those, I believe them to be true. This the 5th day of July 2011.

Bobby MacBryan Green, Plaintiff/Petitioner

STATE OF TENNESSEE
COUNTY OF WASHINGTON

On this day, Bobby MacBryan Green, with whom I am personally acquainted and who also presented trustworthy identification, appeared personally before me, and after being duly sworn and deposed, executed the above verification & affidavit.

This the 5th day of July 2011.

Deputy Clerk and Master

Affidavit and Certificate of Service : Bobby MacBryan Green, after having been duly sworn and deposed, says : I am the Plaintiff/Petitioner in this matter. On this day I served a true and accurate copy of the attached PLAINTIFF'S MOTION FOR TEMPORARY INJUNCTION upon Defendant/Respondent:

Jodi Jones, 315 W. Locust Street, Johnson City, TN 37604

Mary Lee Jondahl, 313 W. Locust Street, Johnson City, TN 37604

Betty Ann Polaha, 616 W. Pine Street, Johnson City, TN 37604

Howell Sherrod, 723 W. Locust Street, Johnson City, TN 37604

as well as :

Howell Sherrod, Attorney for Defendant[s], 249 East Main Street, Johnson City, TN 37604

by placing the same in an official depository of the U.S. Postal Service, first class, postage prepaid, on this the 5th day of July 2011.

Bobby MacBryan Green
Plaintiff/Petitioner pro se

WASHINGTON COUNTY, TENNESSEE

Bobby MacBryan green, with whom I am personally acquainted and who also produced trustworthy identification, personally appeared before me this day, and after being duly sworn, executed the above Affidavit and Certificate of Service. This the 5th day of July 2011.

Deputy Clerk and Master